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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,487	01/18/2001	Tomoyuki Ishii	500.39521X00	6176

20457 7590 01/10/2003

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ARLINGTON, VA 22209

EXAMINER

TRAN, ANDREW Q

ART UNIT	PAPER NUMBER
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2824

DATE MAILED: 01/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

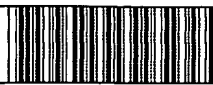
# Office Action Summary

Application No.  
**09/764,487**

Applicant(s)  
**TOMOYUKI ISHII**

Examiner  
**Andrew Q. Tran**

Art Unit  
**2824**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 29, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-17 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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Applicant's election without traverse of Group I/ invention, corresponding to claims 1-7, drawn to a semiconductor memory device, in Paper No. 7, is acknowledged.

However the Restriction Requirement of Paper No. 6 is hereby regrettably withdrawn in view of the Restriction/Election Requirement that follows.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-7, drawn to a semiconductor memory device, classified in class 365, subclass 63.
- II. Claims 8-14, drawn to a semiconductor memory device, classified in class 365, subclass 51.
- III. Claims 15-17, drawn to a data processor device, classified in class 365, subclass 189.12.

The inventions are distinct, each from the other because:

Inventions of Group I, Group II and Group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects

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(MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions recite substantially unrelated subject matters. That is, the invention of Group I calls for two or more different memory arrays formed at different vertical levels on a substrate. On the other hand, the Group II invention requires a plurality of memory cells formed on an insulator film and a plurality of transistors provided on a substrate surface, at different vertical levels. Meanwhile, the Group III invention recites a data processor device comprising an authentication function, a nonvolatile memory array, and a conductor layer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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This application further contains claims directed to the following patentably distinct species of the claimed invention:

- A/ Species of Figs. 1, 8 and 21-22;
- B/ Species of Figs. 9-10 and 12-13;
- C/ Species of Fig. 14;
- D/ Species of Figs. 15a-b and 16;
- E/ Species of Fig. 17;
- F/ Species of Figs. 18a-b;
- G/ Species of Figs. 19a-b; and
- H/ Species of Fig. 20.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic claim.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is required to elect one invention from the inventions as set forth above; along with an elected species above and claims readable thereon, out of the elected invention.

Papers related to this application may be submitted to Technology Center 2800, Group 2810 by facsimile transmission. Papers should be faxed to Group 2810 via the Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (October 19, 1988). The Fax Center number is (703) 308-7722 or (703) 308-7724.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Q. Tran whose telephone number is (703) 305-3495. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard T. Elms, can be reached at (703) 308-2816.

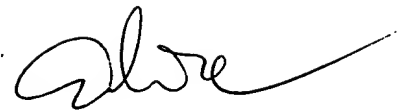
Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

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Andrew Q. Tran  
January 09, 2003

A handwritten signature in black ink, appearing to read 'Andrew Q. Tran', with a long horizontal flourish extending to the right.

**ANDREW Q. TRAN**  
**PRIMARY EXAMINER**